

ESTTA Tracking number: **ESTTA747337**

Filing date: **05/18/2016**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91227258
Party	Defendant Anastasia Lilly, LLC
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Date	05/18/2016
Attachments	05-18-2016_Answer_To_Notice_Of_Opposition.pdf(100502 bytes)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Mattel, Inc.,)	
Opposer,)	Opposition No. 91227258
v.)	
Anastasia Lily, LLC,)	Application Ser. No.: 86/637,702
Applicant.)	Application Filing Date: May 21, 2015
)	Subject Mark: MASTER OF THE
)	UNIVERSE
_____)	

ANSWER

Applicant Anastasia Lily, LLC (“Applicant”), an Arizona limited liability company, hereby responds to the Notice of Opposition filed April 6, 2016 by Opposer Mattel, Inc. (“Opposer”) as follows.

With respect to the information in the preamble and exhibits to the Notice of Opposition, Applicant lacks sufficient information to form a belief as to the truth or falsity of the preamble and exhibits and, therefore, denies the same, and leaves Opposer to its proof, with the exception that Applicant denies that Opposer will be damaged by the registration of Applicant’s service mark “MASTER OF THE UNIVERSE” as set forth in application Serial No. 86/637,702.

The following paragraph numbers refer to the paragraph numbers of the allegations recited in the Notice of Opposition.

1. Applicant denies that “MASTERS OF THE UNIVERSE” is a famous brand. Applicant does not

have sufficient information to admit or deny the remaining allegations set forth in Paragraph 1 of the Notice of Opposition, and therefore denies the same.

2. Applicant does not have sufficient information to admit or deny the allegations set forth in Paragraph 2 of the Notice of Opposition, and therefore denies the same.

3. Applicant does not have sufficient information to admit or deny the allegations set forth in Paragraph 3 of the Notice of Opposition, and therefore denies the same.

4. Applicant does not have sufficient information to admit or deny the allegations set forth in Paragraph 4 of the Notice of Opposition, and therefore denies the same.

5. Applicant denies that the "MASTERS OF THE UNIVERSE" marks set forth in the issued registrations identified in Paragraph 3 of the Notice of Opposition are highly distinctive, or represent tremendous goodwill, or are instantly recognizable, or are associated exclusively with Opposer.

Applicant denies that the "MASTERS OF THE UNIVERSE" marks set forth in the pending applications identified in Paragraph 3 of the Notice of Opposition are highly distinctive, or represent tremendous goodwill, or are instantly recognizable, or are associated exclusively with Opposer. Applicant does not have sufficient information to admit or deny the remaining allegations set forth in Paragraph 5 of the Notice of Opposition, and therefore denies the same.

6. Applicant does not have sufficient information to admit or deny the allegations set forth in Paragraph 6 of the Notice of Opposition, and therefore denies the same.

7. Applicant denies the allegations set forth in Paragraph 7 of the Notice of Opposition.

8. Applicant claims first use of the service mark "MASTER OF THE UNIVERSE" for the services of writing biographies for others at least as early as February 28, 2015. Applicant admits the remaining allegations set forth in Paragraph 8 of the Notice of Opposition.

9. Applicant denies the allegations set forth in Paragraph 9 of the Notice of Opposition.

10. Applicant admits the allegations set forth in Paragraph 10 of the Notice of Opposition.

11. Applicant admits that Opposer has asserted, within Reg. No. 1,211,714, first usage of the mark “MASTERS OF THE UNIVERSE” for a toy figure on December 8, 1981. Applicant admits that December 8, 1991 is prior to the May 21, 2015 filing date of Applicant’s application Serial No. 86/637,702, and is prior to February 28, 2015. Applicant admits that the other registrations or applications cited in the Notice of Opposition are based upon applications filed on January 29, 2013, and Applicant admits that January 29, 2013 is earlier in time than May 21, 2015 or February 28, 2015. Apart from cited Reg. No. 1,211,714, Applicant denies that any of the other registrations or applications cited in the Notice of Opposition assert first usage of the mark “MASTERS OF THE UNIVERSE” for any goods or services prior to the May 21, 2015 filing date of Applicant’s application Serial No. 86/637,702, or prior to February 28, 2015. Applicant does not have sufficient information to admit or deny the remaining allegations set forth in Paragraph 11 of the Notice of Opposition, and therefore denies the same.

12. Applicant admits that Applicant’s mark “MASTER OF THE UNIVERSE” and the marks that are the subject of Opposer’s cited “MASTERS OF THE UNIVERSE” registrations and applications differ from each other at least because Applicant’s mark includes the component “MASTER” without the letter “S” at the end of such component, while the marks that are the subject of Opposer’s cited “MASTERS OF THE UNIVERSE” registrations and applications include a final letter “S” at the end of the component “MASTERS”. Applicant denies the remaining allegations set forth in Paragraph 12 of the Notice of Opposition.

13. Applicant denies the allegations set forth in Paragraph 13 of the Notice of Opposition.

14. Applicant admits that neither Opposer’s cited registrations and cited applications, nor Applicant’s pending application, expressly recite any limitations on channels of trade. Applicant does not have sufficient information to admit or deny the remaining allegations set forth in Paragraph 14 of the Notice of Opposition, and therefore denies the same.

15. Applicant admits that the mark presented by Applicant in application Ser. No. 86/637,702, was presented for registration as a standard character mark, without any design or style. Applicant does not have sufficient information to admit or deny the remaining allegations set forth in Paragraph 15 of the Notice of Opposition, and therefore denies the same.

16. Applicant admits that Mattel has no control over the nature and quality of the services offered by Applicant. Applicant denies the remaining allegations set forth in Paragraph 16 of the Notice of Opposition.

17. Applicant denies the allegations set forth in Paragraph 17 of the Notice of Opposition.

18. Applicant denies the allegations set forth in Paragraph 18 of the Notice of Opposition.

19. Applicant denies the allegations set forth in Paragraph 19 of the Notice of Opposition, including without limitation, the allegations that the marks which are the subject of Opposer's cited registrations and applications have a distinctive quality or are famous.

20. Applicant denies the allegations set forth in Paragraph 20 of the Notice of Opposition, including without limitation, the allegations that the marks which are the subject of Opposer's cited registrations and applications have distinctiveness, an identity-evoking quality, or are famous.

21. Applicant denies the allegations set forth in Paragraph 21 of the Notice of Opposition.

SEPARATE AND AFFIRMATIVE DEFENSES

22. Upon information and belief, Opposer obtained trademark Reg. No. 2,967,347, registered on July 12, 2005, based upon trademark application Ser. No. 75/855,937, filed November 22, 1999, for the mark "MASTERS OF THE UNIVERSE" in Intl. Classes 003, 009, 016, 020, 021, 024, 025, 026, 028, and 041.

23. The aforementioned trademark Reg. No. 2,967,347 included goods in Intl. Cl. 003, namely,

toothpaste.

24. The aforementioned trademark Reg. No. 2,967,347 included goods in Intl. Cl. 009, namely, “video and audio recordings made on disks, cartridges and cd-rom by laser and electronic means, all featuring music, stories, activities and other such educational and entertainment topics for children; computer game software, interactive multimedia computer game programs”.

25. The aforementioned trademark Reg. No. 2,967,347 included goods in Intl. Cl. 016, namely, “stickers, decals, series of fiction books”.

26. The aforementioned trademark Reg. No. 2,967,347 included goods in Intl. Cl. 020, namely, “sleeping bags”.

27. The aforementioned trademark Reg. No. 2,967,347 included goods in Intl. Cl. 021, namely, “lunch boxes, thermal insulated tote bags and containers for food or beverages, toothbrushes”.

28. The aforementioned trademark Reg. No. 2,967,347 included goods in Intl. Cl. 024, namely, “comforters”.

29. The aforementioned trademark Reg. No. 2,967,347 included goods in Intl. Cl. 025, namely, “shirts, t-shirts, hats, caps”.

30. The aforementioned trademark Reg. No. 2,967,347 included goods in Intl. Cl. 026, namely, “fabric appliques”.

31. The aforementioned trademark Reg. No. 2,967,347 included goods in Intl. Cl. 028, namely, “toy action figures and accessories therefor, toy weapons, toy armor, toy swords, mechanical action toys, jigsaw puzzles”.

32. The aforementioned trademark Reg. No. 2,967,347 included services in Intl. Cl. 041, namely, “education and entertainment services, namely, an online computer service comprised of games for children and adults; entertainment services in the nature of animated series”.

33. Upon information and belief, the U.S. Trademark Office canceled trademark Reg. No. 2,967,347

on February 17, 2012.

34. Upon information and belief, Opposer did not file, in the U.S. Trademark Office, a declaration or affidavit relating to trademark Reg. No. 2,967,347, stating that the mark “MASTERS OF THE UNIVERSE” was still in current use in 2011 or 2012.

35. Upon information and belief, by February 12, 2012 or earlier, Opposer had ceased use of the mark “MASTERS OF THE UNIVERSE” in interstate commerce in Intl. Cl. 003 for toothpaste.

36. Upon information and belief, by February 12, 2012 or earlier, Opposer had ceased use of the mark “MASTERS OF THE UNIVERSE” in interstate commerce in Intl. Cl. 009, for video and audio recordings made on disks, cartridges and cd-rom by laser and electronic means, all featuring music, stories, activities and other such educational and entertainment topics for children; computer game software, and interactive multimedia computer game programs.

37. Upon information and belief, by February 12, 2012 or earlier, Opposer had ceased use of the mark “MASTERS OF THE UNIVERSE” in interstate commerce in Intl. Cl. 016 for stickers, decals, and series of fiction books.

38. Upon information and belief, by February 12, 2012 or earlier, Opposer had ceased use of the mark “MASTERS OF THE UNIVERSE” in interstate commerce in Intl. Cl. 020 for sleeping bags.

39. Upon information and belief, by February 12, 2012 or earlier, Opposer had ceased use of the mark “MASTERS OF THE UNIVERSE” in interstate commerce in Intl. Cl. 021 for lunch boxes, thermal insulated tote bags and containers for food or beverages, and toothbrushes.

40. Upon information and belief, by February 12, 2012 or earlier, Opposer had ceased use of the mark “MASTERS OF THE UNIVERSE” in interstate commerce in Intl. Cl. 024 for comforters.

41. Upon information and belief, by February 12, 2012 or earlier, Opposer had ceased use of the mark “MASTERS OF THE UNIVERSE” in interstate commerce in Intl. Cl. 025 for shirts, t-shirts, hats, and caps.

42. Upon information and belief, by February 12, 2012 or earlier, Opposer had ceased use of the mark “MASTERS OF THE UNIVERSE” in interstate commerce in Intl. Cl. 026 for fabric appliques.
43. Upon information and belief, by February 12, 2012 or earlier, Opposer had ceased use of the mark “MASTERS OF THE UNIVERSE” in interstate commerce in Intl. Cl. 028 for toy action figure accessories, toy weapons, toy armor, toy swords, mechanical action toys, and jigsaw puzzles.
44. Upon information and belief, by February 12, 2012 or earlier, Opposer had ceased use of the mark “MASTERS OF THE UNIVERSE” in interstate commerce in Intl. Cl. 041, namely, education and entertainment services, namely, an online computer service comprised of games for children and adults; and entertainment services in the nature of animated series.
45. Upon information and belief, Opposer abandoned all trademark and service mark rights, including any common law trademark rights, in the mark “MASTERS OF THE UNIVERSE” as applied to toothpaste.
46. Upon information and belief, Opposer abandoned all trademark rights, including any common law trademark rights, in the mark “MASTERS OF THE UNIVERSE” as applied to video and audio recordings made on disks, cartridges and cd-rom by laser and electronic means, all featuring music, stories, activities and other such educational and entertainment topics for children; computer game software, and interactive multimedia computer game programs.
47. Upon information and belief, Opposer abandoned all trademark rights, including any common law trademark rights, in the mark “MASTERS OF THE UNIVERSE” as applied to stickers, decals, and series of fiction books.
48. Upon information and belief, Opposer abandoned all trademark rights, including any common law trademark rights, in the mark “MASTERS OF THE UNIVERSE” as applied to sleeping bags.
49. Upon information and belief, Opposer abandoned all trademark rights, including any common law trademark rights, in the mark “MASTERS OF THE UNIVERSE” as applied to lunch boxes, thermal

insulated tote bags and containers for food or beverages, and toothbrushes.

50. Upon information and belief, Opposer abandoned all trademark rights, including any common law trademark rights, in the mark “MASTERS OF THE UNIVERSE” as applied to comforters.

51. Upon information and belief, Opposer abandoned all trademark rights, including any common law trademark rights, in the mark “MASTERS OF THE UNIVERSE” as applied to shirts, t-shirts, hats, and caps.

52. Upon information and belief, Opposer abandoned all trademark rights, including any common law trademark rights, in the mark “MASTERS OF THE UNIVERSE” as applied to fabric appliques.

53. Upon information and belief, Opposer abandoned all trademark rights, including any common law trademark rights, in the mark “MASTERS OF THE UNIVERSE” as applied to for toy action figure accessories, toy weapons, toy armor, toy swords, mechanical action toys, and jigsaw puzzles.

54. Upon information and belief, Opposer has abandoned all service mark rights, including any common law service mark rights, in the mark “MASTERS OF THE UNIVERSE” as applied to education and entertainment services, namely, an online computer service comprised of games for children and adults; and entertainment services in the nature of animated series.

55. Upon information and belief, Opposer obtained trademark Reg. No. 1,427,611, registered on February 3, 1987, based upon trademark application Ser. No. 73/605,678, filed June 23, 1986, for the mark “MASTERS OF THE UNIVERSE” in Intl. Class 028 for board games.

56. Upon information and belief, the U.S. Trademark Office canceled trademark Reg. No. 1,427,611 on August 9, 1993.

57. Upon information and belief, Opposer did not file, in the U.S. Trademark Office, a declaration or affidavit relating to trademark Reg. No. 1,427,611, stating that the mark “MASTERS OF THE UNIVERSE” was still in current use in 1993.

58. Upon information and belief, by 1993 or earlier, Opposer had ceased use of the mark “MASTERS

OF THE UNIVERSE” in interstate commerce in Intl. Cl. 028 for board games.

59. Upon information and belief, Opposer abandoned all trademark rights, including any common law trademark rights, in the mark "MASTERS OF THE UNIVERSE" as applied to board games.

60. Upon information and belief, Opposer obtained trademark Reg. No. 1,280,844, registered on June 5, 1984, based upon trademark application Ser. No. 73/427,571, filed May 25, 1983, for the mark “MASTERS OF THE UNIVERSE” in Intl. Class 028 for toy vehicles and toy building structures.

61. Upon information and belief, the U.S. Trademark Office canceled trademark Reg. No. 1,280,844 on November 8, 1990.

62. Upon information and belief, Opposer did not file, in the U.S. Trademark Office, a declaration or affidavit relating to trademark Reg. No. 1,280,844, stating that the mark “MASTERS OF THE UNIVERSE” was still in current use in 1990.

63. Upon information and belief, by 1990 or earlier, Opposer had ceased use of the mark “MASTERS OF THE UNIVERSE” in interstate commerce in Intl. Cl. 028 for toy vehicles and toy building structures.

64. Upon information and belief, Opposer abandoned all trademark rights, including any common law trademark rights, in the mark "MASTERS OF THE UNIVERSE" as applied to toy vehicles and toy building structures.

65. Upon information and belief, Opposer obtained trademark Reg. No. 1,275,357, registered on April 24, 1984, based upon trademark application Ser. No. 73/413,667 filed February 16, 1983, for the mark “MASTERS OF THE UNIVERSE” in Intl. Class 028 for “equipment sold as a unit for playing a handheld electronic game; equipment sold as a unit for playing a digital display game--namely, game cartridge”.

66. Upon information and belief, the U.S. Trademark Office canceled trademark Reg. No. 1,275,357 on March 15, 1991.

67. Upon information and belief, Opposer did not file, in the U.S. Trademark Office, a declaration or affidavit relating to trademark Reg. No. 1,275,357, stating that the mark “MASTERS OF THE UNIVERSE” was still in current use in 1990 or 1991.
68. Upon information and belief, by 1991 or earlier, Opposer had ceased use of the mark “MASTERS OF THE UNIVERSE” in interstate commerce in Intl. Cl. 028 for equipment for playing handheld electronic games, and for game cartridges for playing a digital display game.
69. Upon information and belief, Opposer abandoned all trademark rights, including any common law trademark rights, in the mark "MASTERS OF THE UNIVERSE" as applied to equipment for playing handheld electronic games, and for game cartridges for playing a digital display game.
70. Upon information and belief, Opposer filed intent-to-use trademark application Ser. No. 85/834,967 on January 29, 2013, seeking registration for “MASTERS OF THE UNIVERSE” in Intl. Cl. 026, for use with “gift wrapping bows; fabric appliques; ornamental novelty pins & buttons”, but abandoned such application on or about August 31, 2015.
71. In view of the facts alleged in the foregoing Paragraphs 22-70, Opposer’s mark “MASTERS OF THE UNIVERSE” is not a “famous mark” within the meaning of the Trademark Dilution Revision Act of 2006, 15 U.S.C. §1125(c).
72. Opposer’s mark “MASTERS OF THE UNIVERSE” is not sufficiently famous or distinctive to be entitled to protection from alleged dilution.

WHEREFORE, Applicant respectfully requests that the Opposition be dismissed, and that registration of Applicant’s mark set forth in Application Serial No. 86/637,702 be granted.

Respectfully submitted,

Anastasia Lily, LLC (Applicant)

Date: May 18, 2016

By: /s/ Marvin A. Glazer

Marvin A. Glazer

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CERTIFICATE OF ELECTRONIC TRANSMISSION

I hereby certify that this correspondence is being transmitted on May 18, 2016 to the United States Patent and Trademark Office Trademark Trial and Appeal Board using the Electronic System for Trademark Trials and Appeals (ESTTA).

/s/ Marvin A. Glazer

Marvin A. Glazer

CERTIFICATE OF SERVICE VIA ELECTRONIC MAIL BY AGREEMENT

I, Marvin A. Glazer, of Cahill Glazer PLC, attorneys for Applicant Anastasia Lily, LLC, hereby certify that a true and complete copy of the foregoing ANSWER was served via electronic mail (email attachment) on May 18, 2016 on Counsel for Opposer, namely:

Bobby Ghajar, Esq. email address: bobby.ghajar@pillsburylaw.com
Marcus Peterson, Esq. email address: marcus.peterson@pillsburylaw.com
PILLSBURY WINTHROP SHAW PITTMAN
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and that counsel for the parties have mutually agreed that, in regard to papers filed in the Trademark Trial and Appeal Board in this opposition proceeding, electronic service upon opposing counsel via email attachment shall be treated as the equivalent of mail service, provided that any files above 5MB are split prior to sending them by email.

/s/ Marvin A. Glazer
Marvin A. Glazer